Annual Report on the Activities of the Rental Office

January 1-December 31, 2003

Submitted by
Hal Logsdon
Rental Officer

The Rental Office

The Rental Office and the appointment of a Rental Officer came into effect in 1988 with the passage of the *Residential Tenancies Act*. Prior to the passage of the *Residential Tenancies Act* all landlord tenant matters were heard by the Court. The *Residential Tenancies Act* was intended to provide a more expeditious and less formal dispute resolution mechanism for residential landlords and tenants and was part of a general trend across Canada to establish tribunals to deal with residential tenancy matters. The Act gives the Rental Officer specific powers and duties designed to resolve disputes between landlords and tenants who have entered into residential tenancy agreements.

A Convenient Source of Information for Landlords and Tenants

The Rental Office is a convenient place for landlords and tenants to obtain information regarding their rights and obligations under the *Residential Tenancies Act*. Many landlord tenant problems are solved simply by providing landlords and tenants information concerning their respective rights and responsibilities. Many tenants and a surprising number of landlords are unaware of the legislation that governs their relationship. The provision of information is probably the single most important function of the office, often serving to eliminate conflict and problems before they start.

The Rental Office maintains a toll-free telephone number which can be used anywhere in Canada. We receive numerous calls each day seeking information concerning rights and obligations of landlords and tenants and the process for filing applications and resolving disputes.

The Rental Office also provides written information, including a simple to read booklet outlining the major aspects of the *Residential Tenancies Act*, short fact sheets on selected topics and numerous standard forms, including a tenancy agreement. Like the day-to-day inquiries, the written material helps both landlords and tenants acquire an understanding of mutual rights and responsibilities to help to solve problems before they start.

As the use of the internet has increased throughout the North, the Rental Office has expanded their website to include all of the written material available at our office as well as a link to the legislation and a searchable database of Rental Officer decisions.

The Rental Officer is also available to make presentations or participate in forums with tenants, property managers or others involved in residential tenancy matters. We provide these services free of charge in the belief that informed and knowledgeable landlords and tenants are more likely to respect the rights and obligations of each other and less likely to end up in a conflict situation.

Dispute Resolution

If a landlord or tenant fails to meet their obligations set out in the *Residential Tenancies Act* or the tenancy agreement, an application to a Rental Officer may be filed. Often, disputes require the Rental Officer to inquire into the matter in order to determine the nature of the dispute and facts related to the dispute. Applications involving the physical condition of premises are often best understood through an inspection of the unit. Similarly, applications involving third parties, such as utility suppliers are often investigated prior to hearing.

Occasionally, the investigation leads to a resolution of the dispute by agreement. For example, a tenant may file an application when a security deposit has not been returned and no statement of the deposit has been provided to the tenant. A brief investigation into the matter may reveal that the landlord was unaware of the new address of the former tenant or of his responsibility to produce a statement. The production of the statement may lead to agreement between the parties and the withdrawal of the application.

Occasionally, the parties will agree to a mediated solution to the problem without recourse to a formal hearing or the issuance of an order. If the parties wish to try to settle the issue by mediation, the Rental Officer will assist them in the resolution of the matter and the preparation of a mediated agreement.

Often, landlords and tenants can not agree or one of the parties wants a decision which can be enforced, should the other party fail to abide by that decision. In these cases, the Rental Officer will hold a hearing and, after hearing the evidence and testimony of both parties, render a decision. The Rental Officer will issue a written order along with reasons for the decision. Orders by a Rental Officer may be filed in the Territorial Court and are deemed to be an order of that court when filed. Most disputes are settled in this manner as the majority of disputes concern non-payment of rent and an enforceable decision is desired by the applicant.

Enforcement of the Act

The contravention of certain sections of the *Residential Tenancies Act* and certain actions described in the Act are offences. On summary conviction, offenders are liable to a fine. Few choose to ignore the law when informed but occasionally the Rental Officer is required to investigate allegations of contraventions which could lead to charges being laid.

Rental Office Activities

Mr. Hal Logsdon served as Rental Officer throughout the year. Mr. Logsdon's appointment was renewed for a three year term on April 1, 2003. Ms. Kim Powless continued to serve as the Rental Office Administrator during the year.

More and more landlords and tenants are asking about information on the website. In response, we have added almost all of the written public information available in our office to the site. The tenancy agreement is now available in PDF format. There is now a searchable database which allows users to access filed orders. Our *Information for Landlords and Tenants* booklet has also been added to the website as well as the *What You Should Know About....* series of information leaflets.

Our toll-free line continues to be the first line of inquiry for most landlords and tenants. We receive numerous calls every day seeking information.

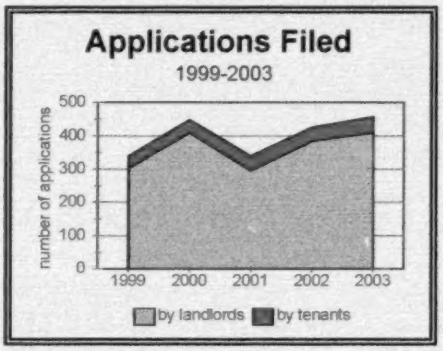
Trends and Issues

A significant increase in apartment construction in Yellowknife forced the vacancy rate higher in 2003 but the market remained relatively tight. Rents in the capital continued to increase during the year. Canada Mortgage and Housing Corporation reported the average vacancy rate as 1.7% in November, 2003, up from an average rate of 0.3% a year ago. Average rent increased by 8.3% during the same period. New units continue to come on line which are expected to increase the vacancy rate and slow the rate of rent increases. Canada Mortgage and Housing Corporation has forecast a vacancy rate of 2.5% by October, 2004.

The oil and gas activity in the Beaufort Delta created very low vacancy rates in Inuvik throughout the year. While no statistics on average rent or vacancy rates are available, landlords indicate that the market is very tight.

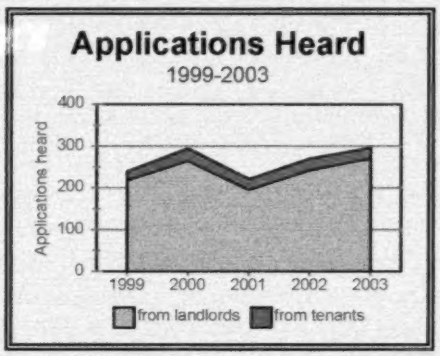
The total number of applications filed increased by 7% in 2003 to 457. Of these, 296 resulted in a hearing. The number of hearings held increased by 9% over the 2002 level.

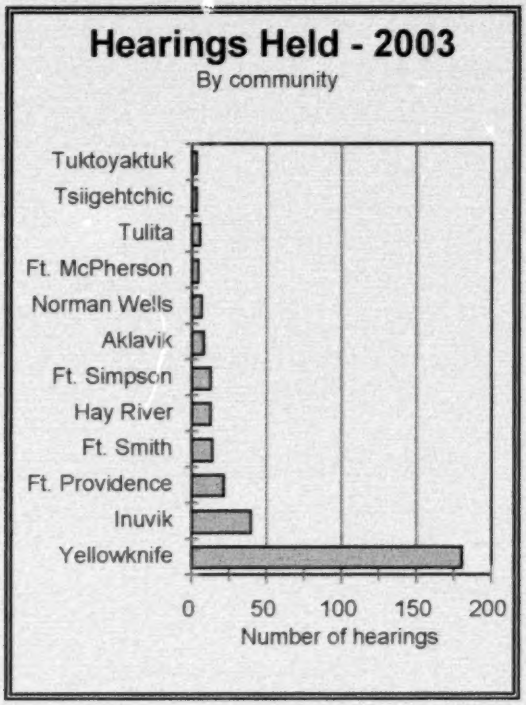
The rapid growth in the Yellowknife rental market coupled with low vacancy rates have increased the activity of the Rental Office in the capital city. Hearings in Yellowknife now account for 60% of all hearings held. The number of hearings held in Yellowknife jumped 22% from the previous year to 179.

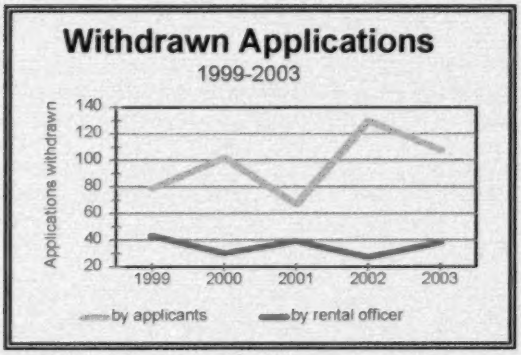


Of the 296 hearings held across the Northwest Territories in 2003, 91% were based on applications filed by landlords. Only 9% of the hearings were based on tenant applications.

Of the hearings held, 242 were conducted in person, 41 were conducted by telephone and 13 conducted by videoconference. Telephone hearings continue to be an effective way to hear matters in a timely and cost-effective manner, particularly when only one or two applications are received from a community outside Yellowknife or when the parties reside in different communities. Video-conference hearings are a great improvement over telephone hearings but the number of locations where video facilities exist is still very limited.







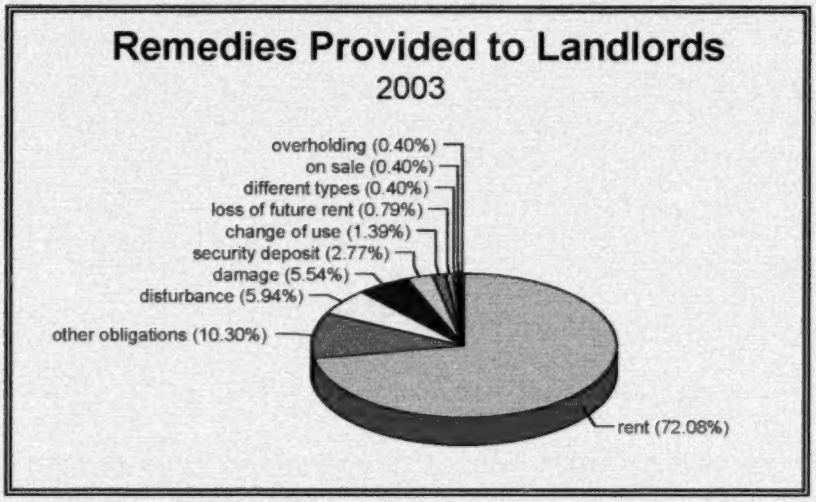
Formal mediation of disputes continues to be an uncommon occurrence. Most disputes involve the non-payment of rent, many of which are uncontested by the respondent. It is common to mediate a scheduled repayment of the rental arrears, but the applicant normally wants such a schedule included in an order so that it is enforceable. The unwillingness to participate in mediated settlements is largely a function of the time it takes to obtain a order. Few applicants want a mediated settlement if they must then initiate a lengthy process to obtain an enforceable order if the mediated agreement falls apart.

Often, the dispute between parties is resolved to the satisfaction of the applicant before a hearing is held, resulting in the withdrawal of the application by the applicant. In other cases, the application is withdrawn by the Rental Officer because the applicant has failed to serve the application on the respondent. The number of applications withdrawn by applicants remained high in 2003 at nearly 24% of applications filed. While it is encouraging to see that so many disputes are settled without recourse to adjudication, it is also the case that some landlords file promptly if rent is not paid on time and withdraw the application if the rent is paid prior to the hearing date. The time it takes to obtain a judgement for rent and the lack of any filing fee for applications encourages landlords to file shortly after a tenant goes into rent arrears. Unfortunately it also results in increased administration and cost for the Rental Office.

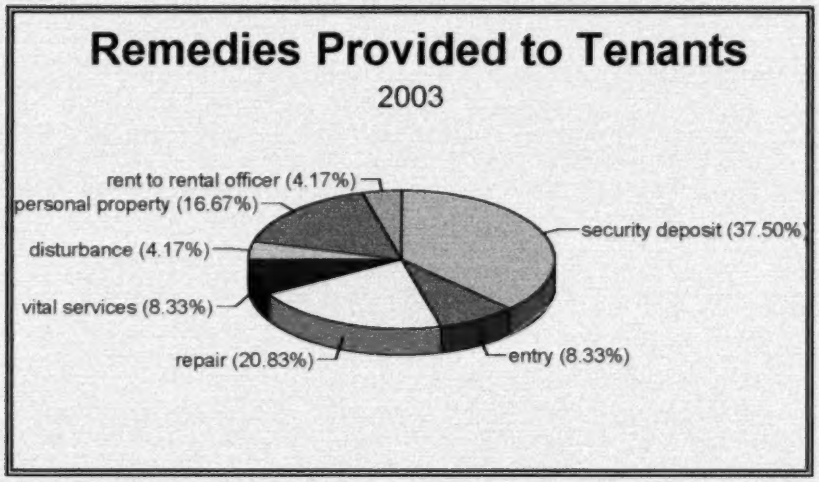
Unlike many other jurisdictions in Canada, the NWT *Residential Tenancies Act* does not include a mechanism whereby a landlord may serve a notice of termination on a tenant if rent is unpaid and the notice becomes ineffective if the rent is paid by a certain date. Such a legislative amendment would serve to reduce the number of applications made and the number of applications which are withdrawn.

Although landlords file the majority of applications, tenants rely on the Rental Office as a source of information and make good use of the toll-free number to make inquiries. The Rental Office web page has also been significantly expanded and many inquiries are referred to the page for written information.

Applications are received from most communities in the NWT but applications from the major centres, particularly Yellowknife and Inuvik, continue to make up the bulk of filed applications.

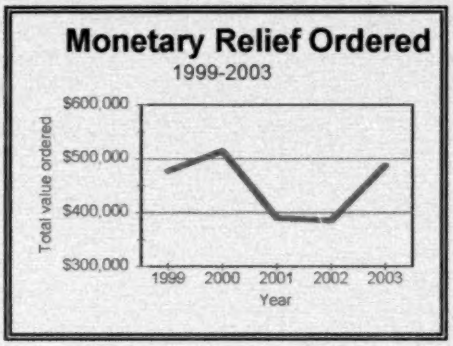


The most frequent remedies provided to landlords through orders are for non-payment of rent. The percentage of orders issued regarding payment of rent or termination for non-payment of rent decreased by about 5% from 2002. There was an increase in the percentage of orders regarding other tenant obligations, primarily the payment of electricity in social housing. Remedies regarding tenant damage to premises was marginally lower than in 2003.



Most remedies provided to tenants related to the return of security deposits and repairs. Other remedies provided included orders to return personal property and orders related to disturbance, entry and withholding vital services. One order was issued requiring a tenant to pay rent to a Rental Officer until the landlord completed ordered repairs.

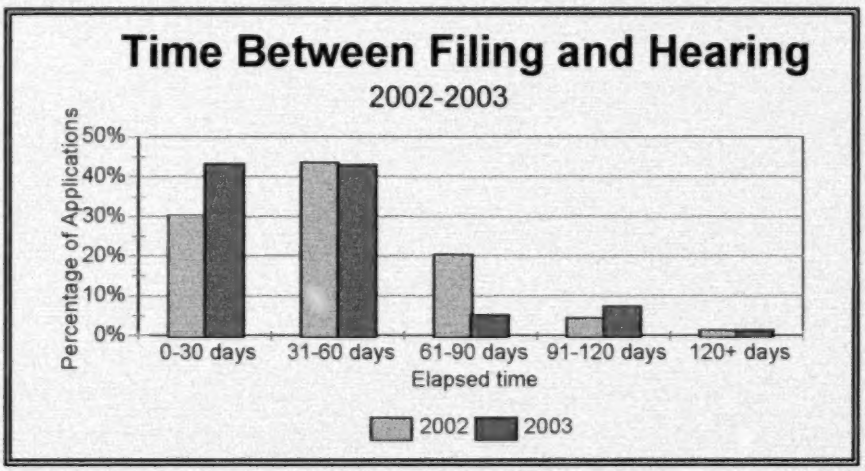
In 2003, 238 orders were issued which required monetary payment to be paid by one party to the other. Both the number and total value of such orders increased from 2002 levels resulting in a total value of orders of almost $488,000. The average value of compensation ordered increased by 8% to $2049.



The number of terminations ordered remained the same in 2003 but expressed as a percentage of applications heard, decreased by 3%. It should be noted however that many of these termination orders were conditional in nature and did not necessarily result in the termination of the tenancy agreement. In many cases involving rent, the order issued will terminate the tenancy agreement unless the tenant pays the rent arrears by a particular date.

We have no way of tracking how many orders for termination actually result in a termination of the tenancy agreement but we suspect that many conditional termination orders are satisfied and the tenancy continues.

The time it takes from the time an application is filed to the time it is heard depends on a number of factors, some of which are outside the control of the Rental Office. Users of the services occasionally complain about the length of time it takes to resolve a dispute and we continue to do what we can to make the administration of the process move as rapidly as possible. Over the past few years we have consistently reduced the time it takes to resolve disputes.



We reported in 2002 that it appeared a point had been reached where only changes in the process, much of which is contained in the legislation, would lead to further reductions. It appears we were wrong. In 2003, 86% of applications were heard within 60 days of filing compared to 73% in 2002.

It has been our experience that where the filed application is not delayed by mail, the applicant serves the respondent quickly, the hearing notices are deliverable and the parties do not seek any postponements, an application will be heard within 4-6 weeks of filing. However any or all of the above factors can delay the process considerably, and occasionally do.

Statistics for the Year
January 1, 2003 to December 31, 2003

Applications to a Rental Officer
1999-2003

	1999	2000	2001	2002	2003
Applications Filed	339	448	339	426	457
By Landlords	302	409	295	384	409
By Tenants	37	39	44	42	48
Applications Heard	240	295	221	271	296
From Landlords	218	264	195	242	270
From Tenants	22	31	26	29	26
Applications Withdrawn	122	132	106	157	146
By Applicants	79	102	67	130	108
By Rental Officer	43	30	39	27	38

Hearings Held, by Community and Type
2003

Community	in person	by phone	by video	TOTAL
Yellowknife	179	0	0	179
Inuvik	21	4	13	38
Hay River	1	11	0	12
Fort Providence	20	0	0	20
Fort McPherson	0	3	0	3
Fort Smith	9	4	0	13
Fort Simpson	11	0	0	11
Norman Wells	0	5	0	5
Tsiigehtchic	0	2	0	2
Aklavik	0	7	0	7
Tuktoyaktuk	1	1	0	2
Tulita	0	4	0	4
TOTAL	242	41	13	296

Remedies Ordered After a Hearing
2002-2003

Landlords	2002	%	2003	%
Rent (Section 41)	325	77%	364	72%
Tenant Damages (Section 42)	34	8%	28	6%
Disturbance (Section 43)	22	5%	30	6%
Other Obligations of Tenant (Section 45)	12	3%	52	10%
Security Deposit (Sections 14 & 18)	10	2%	14	3%
Loss of Future Rent (Section 62)	3	0.7%	4	0.8%
Termination for Sale or Change of Use (Section 58 & 59)	11	3%	7	1%
Compensation for Overholding (Section 67)	2	0.5%	2	0.4%
Illegal Activities (Section 46)	4	0.9%	0	0%
Termination of Different Types (Section 57)	2	0.5%	2	0.4%
Tenants	**2002**	**%**	**2003**	**%**
Security Deposit (Section 18)	7	18%	9	38%
Maintenance (Section 30)	20	53%	5	21%
Disturbance (Section 34)	5	13%	1	4%
Vital Services (Section 33)	3	8%	2	8%
Order to Pay Rent to Rental Officer (Section 32)	3	8%	1	4%
Landlord's Entry to Premises (Section 28)	0	0%	2	8%
Return of Personal Property (Section 66)	0	0%	1	4%

Terminations Ordered*
1999-2003

	1999	2000	2001	2002	2003
Requested by Tenant	1	1	0	1	0
Requested by Landlord	63	104	89	114	115
As % of Applications Heard	27%	36%	40%	42%	39%

*includes orders which terminate tenancy agreements only if specific conditions are not met.

Value of Compensation Ordered
1999 -2003

	1999	2000	2001	2002	2003
Total Orders Granting Monetary Relief	201	239	175	203	238
Total Value of Orders Issued	$477,161	$514,486	$390,358	$385,242	$487,768
Average Value	$2374	$2153	$2231	$1898	$2049

Elapsed Time Between Filing Date and Hearing Date
Applications Heard During Period
2002-2003

	2002	%	2003	%
0-30 days	82	30.3%	128	43.2%
31-60 days	118	43.5%	127	42.9%
61-90 days	55	20.3%	15	5.1%
91-120 days	12	4.4%	22	7.4%
120+ days	4	1.5%	4	1.4%